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SMITH FROHWEIN TEMPEL GREENLEE BLAHA, LLC			EXAMINER	
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ATLANTA, GA 30346			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/646,150

Applicant(s)

FOSS ET AL.

Examiner

Elizabeth Rosen

Art Unit

3609

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>31 Jan 2006 and 6 June 2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This action is in reply to the application filed on August 22, 2003.
2. Claims 1-20 are currently pending and have been examined.

Information Disclosure Statement

3. The Information Disclosure Statements filed on January 31, 2006 and June 6, 2006 have been considered. Initialed copies of the Form 1449 are enclosed herewith.

Specification

4. The disclosure is objected to because the first paragraph of the first page contains a blank space for the serial number of the pending application entitled "SYSTEM FOR PROVIDING A CHECKLESS CHECKING ACCOUNT." Appropriate action is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-5 and 7-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Sgaraglio et al., U.S. Patent Application Publication Number 2003/0187778 A1.

As per **claim 1**, Sgaraglio teaches:

- *a data collection component, wherein said data collection component is operable to receive account option data and account formation data pertaining to a customer (see at least paragraphs 0037 and 0044);*
- *a decision engine operable to qualify the customer for an account based at least in part on said formation data and said account option data (see at least paragraph 41);*

- *an account creation component operable to establish an account for the qualified customer based at least in part on the account option data and account formation data (see at least paragraphs 0015, 0046, and 0053);*
- *an account management component operable to perform periodic account management and maintenance of said financial account (see at least paragraphs 0055 and 0076); and*
- *a transactional processing component operable to receive transactions and clear the transactions against the account (see at least paragraphs 0015, 0036, and 0047).*

As per **claim 2**, Sgaraglio teaches the limitations as stated above. Sgaraglio further teaches:

- *an underwriting component operable to apply qualification criteria to qualify customers for an account (see at least paragraphs 0040, 0045, and 0051).*

As per **claim 3**, Sgaraglio teaches the limitations as stated above. Sgaraglio further teaches:

- *at least one risk model coupled to said underwriting component operable to model risks associated with said financial account and associated with said qualification criteria (see at least paragraphs 0040, 0045, and 0051).*

As per **claim 4**, Sgaraglio teaches the limitations as stated above. Sgaraglio further teaches:

- *an account behavior component operable to examine a customer's account behavior (see at least paragraphs 0042, 0046, 0054, 0076, and 0081).*

As per **claim 5**, Sgaraglio teaches the limitations as stated above. Sgaraglio further teaches:

- *a data aggregation module coupled with said account behavior component operable to aggregate data associated with said account transactions (see at least paragraphs 0042, 0046, 0054, 0076, and 0081).*

As per **claim 7**, Sgaraglio teaches:

- *a data collection component, wherein said data collection component is operable receive account option data and account formation data (see at least paragraphs 0037 and 0044);*
- *a decision engine comprising an underwriting component operable to apply qualification criteria to qualify a customer for an account based at least in part on said formation data (see at least paragraph 0041);*

- *an account creation component operable to establish an account for the qualified customer based at least on part on the account option data and account formation data and to create a transaction card (see at least paragraph 0015, 0046, and 0053);*
- *an account management component operable to perform periodic account management and maintenance of said financial accounts and comprising an account behavior component operable to examine a customer's account behavior (see at least paragraph 0055 and 0078); and*
- *a transactional processing component operable to receive transactions and clear the transactions against the account and comprising a data aggregation module interfacing with said account behavior component operable to aggregate data associated with said account transactions (see at least paragraphs 0015, 0036, 0042, 0046, 0047, 0054, 0076, and 0081).*

As per **claim 8**, Sgaraglio teaches the limitations as stated above. Sgaraglio further teaches:

- *at least one risk model coupled to said underwriting component and associated with said qualification criteria operable to model risks associated with said financial account (see at least paragraph 0040).*

As per **claim 9**, Sgaraglio teaches the limitations as stated above. Sgaraglio further teaches:

- *wherein said at least one risk model is coupled to said data aggregation module and said account behavior component, wherein said at least one risk model is operable to update risk models based upon said aggregated data and said account behavior, whereby said qualification criteria is updated (see at least paragraphs 0040, 0042, 0046, 0051, 0054, 0076, and 0081 and claim 23).*

As per **claim 10**, Sgaraglio teaches the limitations as stated above. Sgaraglio further teaches:

- *wherein said account management component performs account management and maintenance based upon said risk models (see at least paragraphs 0040, 0055, and 0078).*

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art

are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sgaraglio et al., U.S. Patent Application Publication Number 2003/0187778 A1 in view of O'Connor, U.S. Patent Application Publication Number 2004/0078325 A1.

Claim 6:

Sgaraglio discloses the limitations as described above. Sgaraglio does not disclose, but O'Connor, however, does disclose:

- *a controller operable to enable and disable functions and privileges of said account based upon said aggregated data* (see at least paragraph 0054).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate O'Connor's method of activating and deactivating an account with Sgaraglio's system and method for establishing credit services with a merchant account. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making the account active for specified transactions, based on customer preferences (see at least O'Connor, paragraph 0054).

9. Claims 11-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sgaraglio et al., U.S. Patent Application Publication Number 2003/0187778 A1 in view of Cushing et al., U.S. Patent Application Publication Number 2001/0034684 A1.

Claim 11:

Sgaraglio discloses the limitations as described above. Sgaraglio further discloses:

- *aggregating data regarding a plurality of financial accounts* (see at least paragraphs 0042 and 0054).

Sgaraglio does not disclose, but Cushing, however, does disclose:

- *modifying the services available to the financial account based on the aggregated data* (see at least paragraphs 0052 and 0053).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Cushing's method of using data gathered from customer responses to determine whether the customer qualifies for underwriting with Sgaraglio's system and method for establishing credit services with a merchant account. One of ordinary skill in the art would have been motivated to incorporate this feature for the

purpose of determining whether the customer qualifies for underwriting based on the most current information (see at least Cushing, paragraphs 0052 and 0053).

Claim 12:

Sgaraglio discloses the limitations as described above. Sgaraglio further discloses:

- *receiving underwriting criteria to use as the basis for qualifying a customer for an account (see at least paragraphs 0040, 0045, and 0051); and*
- *establishing the services available to the financial account based at least in part on the underwriting criteria (see at least paragraphs 0015, 0046, and 0053).*

Claim 13:

Sgaraglio discloses the limitations as described above. Sgaraglio further discloses:

- *wherein a risk model is available (see at least paragraph 0040); and*
- *running the risk model based at least in part on the aggregated data (see at least paragraphs 0040 and 0045).*

Sgaraglio does not disclose, but Cushing, however, does disclose:

- *modifying the underwriting criteria based at least in part on the results of the risk model (see at least paragraphs 0053, 0085, and 0086).*

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Cushing's method of using data gathered from customer responses to determine whether the customer qualifies for underwriting based on the risk models with Sgaraglio's system and method for establishing credit services with a merchant account. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of determining whether the customer qualifies for underwriting based on the most current risk models (see at least Cushing, paragraphs 0052, 0053, 0085, and 0086).

Claim 14:

Sgaraglio discloses the limitations as described above. Sgaraglio does not disclose, but Cushing, however, does disclose:

- *modifying the underwriting criteria is based at least in part on the aggregated data (see at least paragraphs 0052 and 0053).*

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Cushing's method of using data gathered from customer responses to determine whether the customer qualifies for underwriting with Sgaraglio's

system and method for establishing credit services with a merchant account. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of determining whether the customer qualifies for underwriting based on the most current information (see at least Cushing, paragraphs 0052 and 0053).

Claim 15:

Sgaraglio discloses the limitations as described above. Sgaraglio does not disclose, but Cushing, however, does disclose:

- *modifying the underwriting criteria* (see at least paragraph 0053).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Cushing's method of using data gathered from customer responses to determine whether the customer qualifies for underwriting with Sgaraglio's system and method for establishing credit services with a merchant account. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of determining whether the customer qualifies for underwriting based on the most current information (see at least Cushing, paragraphs 0052 and 0053).

Claim 17:

Sgaraglio discloses the limitations as described above. Sgaraglio further discloses:

- *wherein the step of aggregating data comprises the step of receiving transaction information regarding financial transactions associated with the financial account* (see at least paragraph 0042, 0046, 0054, 0076, and 0081).

10. Claims 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sgaraglio et al., U.S. Patent Application Publication Number 2003/0187778 A1 in view of Cushing et al., U.S. Patent Application Publication Number 2001/0034684 A1, and further in view of Lent et al., U.S. Patent Number 6,405,181 B2.

Claim 16:

Sgaraglio/Cushing discloses the limitations as described above. Sgaraglio/Cushing does not disclose, but Lent, however, does disclose:

- *wherein the step of modifying the services comprises the step of modifying the fees associated with services* (see at least column 13, lines 50-60 and column 15, lines 36-40, 53-65).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Lent's method of adjusting the interest rate or annual rate with Sgaraglio/Cushing's system and method for establishing credit services with a merchant account. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of adjusting the fee to coincide with the level of risk of default (see at least Lent, column 13, lines 50-60 and column 15, lines 36-40, 53-65).).

Claim 18:

Sgaraglio/Cushing discloses the limitations as described above. Sgaraglio/Cushing does not disclose, but Lent, however, does disclose:

- *wherein the step of modifying the services comprises the step of modifying a line of credit associated with the financial account* (see at least column 13, lines 50-60, column 14, lines 39-45, and column 15, lines 36-40, 53-65).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Lent's method of adjusting the credit limit with Sgaraglio/Cushing's system and method for establishing credit services with a merchant account. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of adjusting the credit limit to coincide with the risk of default (see at least Lent, column 13, lines 50-60, column 14, lines 39-45, and column 15, lines 36-40, 53-65).

11. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sgaraglio et al., U.S. Patent Application Publication Number 2003/0187778 A1 in view of Cushing et al., U.S. Patent Application Publication Number 2001/0034684 A1, and further in view of O'Connor, U.S. Patent Application Publication Number 2004/0078325 A1.

Claim 19:

Sgaraglio/Cushing discloses the limitations as described above. Sgaraglio/Cushing does not disclose, but O'Connor, however, does disclose:

- *wherein the step of modifying the services comprises the step of modifying restrictions on transactions for the financial account* (see at least paragraph 0052).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate O'Connor's method of restricting transactions with Sgaraglio/Cushing's system and method for establishing credit services with a merchant

account. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of restricting transactions based on criteria such as maximum monetary amounts, specified geographic regions, or specified goods or services (see at least O'Connor, paragraph 0052).

Claim 20:

Sgaraglio/Cushing discloses the limitations as described above. Sgaraglio/Cushing does not disclose, but O'Connor, however, does disclose:

- *wherein the step of modifying the services comprises the step of temporarily disabling one or more services associated with the financial account (see at least paragraphs 0052, 0053, and 0054).*

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate O'Connor's method of making the account active for temporary windows with Sgaraglio/Cushing's system and method for establishing credit services with a merchant account. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making the account active for specified transactions and temporarily deactivating the account upon completion of the specified transaction (see at least O'Connor, paragraphs 0052, 0053, and 0054).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth Rosen whose telephone number is 571-270-1850. The examiner can normally be reached on Monday - Friday, 8:30 am-6:00 pm est, alt Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached at 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


HANI M. KAZIMI
PRIMARY EXAMINER